

MAR 11 2010

SECRETARY, BOARD OF
OIL, GAS & MINING

BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
IN AND FOR THE STATE OF UTAH

IN THE MATTER OF THE APPLICATION
OF CLIFFORD MURRAY FOR AN
ORDER POOLING INTERESTS IN THE
DRILLING UNIT COMPRISING SECTION
2, TOWNSHIP 2 SOUTH, RANGE 1 EAST,
U.S.M., UINTAH COUNTY, UTAH

**AMENDED REQUEST FOR AGENCY
ACTION**

DOCKET NO. 2010-19

CAUSE NO. 131-30

Clifford Murray ("**Murray**") hereby submits an Amended Request for Agency Action which includes the recognized Operator in the records of the Bureau of Land Management for Communitization Agreement UTU76245, Uinta Oil and Gas, Inc. Said Communitization Agreement is known as CA#3 in the original Request and below in this Amended Request. This Amended Request modifies the original Request only insofar as is needed to include Uinta Oil and Gas, Inc. Exhibits remain the same. Murray has only now become aware Uinta Oil and Gas, Inc. remains an active Utah Corporation.

Therefore, Murray, pursuant to Utah Code Ann. § 40-6-6.5(2), petitions the Board of Oil, Gas and Mining (the "**Board**") to enter an order pooling Murray's interest with the interests of Homeland Gas and Oil, Ltd. ("**HGO**"), Mountain Oil and Gas, Inc. ("**MOG**"), Uinta Oil and Gas, Inc. ("**Uinta**") and all other interests in the drilling unit comprising Section 2, Township 2 South, Range 1 East, U.S.M., Uintah County, Utah ("**Subject Lands**").

In support of this Request for Agency Action Murray respectfully states and represents:

1. The Board has Jurisdiction of the parties and of the subject matter of this Request for Agency Action pursuant to Chapter 6 of Title 40 of the *Utah Code Annotated*
2. Murray is a resident of Uintah County, State of Utah and is successor in interest to Wiley and Rodney Fairchild in an oil and gas lease from Robert O. Swain and Donna Swain dated October 30, 1973 which lease was recorded in the records of Uintah County, Utah on

March 1, 1974 in book 191, pages 372-73, a copy of such recorded lease, which is available on the Uintah County website, is attached hereto, and is to be submitted, as Exhibit "A". A copy of the assignment to Murray is attached hereto, and is to be submitted, as Exhibit "B".

3. By order in Cause No. 131-14 dated August 11, 1971, as modified by an order in Cause No. 131-24 dated January 16, 1974, the Board established all of the Subject Lands as a drilling unit within the interval defined as:

That interval below the stratigraphic equivalent of 9,600 feet depth in the "E" Log of the Carter #2 Bluebell well located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 3, Township 1 South, Range 2 West, USM (which equivalence is the depth 9,530 feet of the SP curve, Dual Induction Log, run March 15, 1968, in the Chevron #1 Blanchard well located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 3), to the base of the Green River-Wasatch formations.

Said interval is the productive zone for which pooling in this matter is sought.

4. On 8/31/1981 the Bureau of Indian Affairs ("BIA") approved Communitization Agreement No. 2S1E2 aka CA-CRI218 aka UTU060787 ("CA #1") which is recorded in the records of Uintah County, Utah in Book 304, page 900. Said CA #1 included all the lands in said Section 2. Murray's interest, as successor to Wiley and Rodney Fairchild, is contained within Tract I. A copy of CA #1 available from the Uintah County website will be submitted as Exhibit "C".

5. On 7/22/1981 a well known as the Ute Tribal Unit B #1 (the well name was later changed to Ute Tribal Com., Well No. 1 and is currently known as the 1-2B1E), API #43-047-30931, was spudded. The well was drilled to a total depth of 12,600' and was completed as a producer of oil and gas from the Wasatch formation with first production occurring on /26/1982. A copy of the well completion report from the DOGM website will be submitted as Exhibit "D". The 1-2B1E is the only well located in the drilling unit.

6. According to the records of the Division of Oil, Gas and Mining ("DOGM"), the 1-2B1E well produced each month until April, 1988. Between April, 1988 and November, 1988 reported oil production was minimal and sporadic and the well was shut-in at this point. A copy of the production history available on the DOGM website will be submitted as "Exhibit E".

7. The Serial Register Page available on the Bureau of Land Management's website, a copy of which will be submitted as "Exhibit F", shows CA #1 to have been terminated on 9/18/1989 due to cessation of production.

8. The lease which Murray derives his interest from contains lands in other sections which comprise separate drilling units. One such drilling unit comprises Section 35, Township 1 South, Range 1 East, U.S.M. Within that drilling unit is the Ute Tribal 1-35A1E well

a) The Ute Tribal 1-35A1E well was drilled and completed as a producer of oil and gas with first production occurring on March 31, 1978. A copy of the well completion report available on the DOGM website will be submitted as Exhibit "G".

b) The communitization agreement ("CA #2") covering the drilling unit was approved by the Bureau of Indian Affairs on August 2, 1978 and was recorded in the records of Uintah County, Utah on August 21, 1978 in book 240, pages 390-417.

Wiley and Rodney Fairchild, Murray's predecessors in interest, are signatory to that communitization agreement on page 393 of the recordation. A copy of CA #2 as available on the Uintah County website will be submitted as Exhibit "H".

c) The production history for the Ute Tribal 1-35A1E well demonstrates that production continues to present which has held in force by production the lease from which Murray derives his interest. A copy of such production history as available, from 1984 forward, on the DOGM website will be submitted as Exhibit "I".

i. Under Tract V, on page 413 of the recordation of CA #2, the same leases for this undivided Tract V are listed in CA #1 on page 920 of the recordation as covering Tract I. This appears to indicate those leases are held in force by production in Section 35 also.

9. There is an operating agreement in place between the parties listed as being the working interest owners, or their successor(s) in interest, in the undivided Tract I of CA #1 described on page 920 of the recordation. Attached hereto, and to be submitted, as Exhibit "J" is a copy of a copy of such operating agreement.

10. On May 14, 1991, Quinex Energy Corporation, Steven A. Malnar, Vice-President, Land, wrote a letter to Wiley and Rodney Fairchild regarding the lands located in Section 4, Township 2 South, Range 1 East, U.S.M. which are described in the Fairchild lease Murray's

interest derives from. It acknowledged the lease being held by production at that point. A copy of such letter will be submitted as Exhibit "K".

11. On March 20, 1997 the BIA approved Communitization Agreement No. UTU76245 ("CA #3"), a copy of a copy of which will be submitted as Exhibit "L" (page numbers added for ease of reference), which purports to include all the lands in said Section within the interval specified for the drilling unit by Cause No. 131-24. To Murray's knowledge CA #3 was not placed of record in the records of Uintah County, Utah and only by a diligent effort over 45 days was a copy obtained from the BLM.

- a) On page 8 of CA #3 it is noted that the interest of Hank Swain Family Trust is listed as unleased yet it is also noted that 100% of the working interest is claimed to be owned by Uinta Oil and Gas ("Uinta"). The Hank Swain Family Trust aka Swain Family Trust, who has been served notice of this action, is the successor in interest to Robert O. Swain and Donna Swain who is lessee of the Wiley and Rodney Fairchild lease Murray is successor in interest to. This serves as *prima facie* evidence #1 that Uinta never intended to offer Murray's interest an opportunity to participate in the well as either a working interest owner or farming out of the lease interest to operator.
- b) The signature pages (pages 3 thru 6) of CA #3 offer *prima facie* evidence #2 that the Uinta never intended to offer Murray's interest an opportunity to participate as there is no signature line for either Wiley Fairchild or Rodney Fairchild predecessors in interest to Murray's interest at the time CA #3 was circulated for signatures.
- c) The claiming of the working interest in the Swain Family Trust mineral interest and 100% of all other mineral owners' unleased mineral interests is *prima facie* evidence that the operator did not intend to offer any unleased owner an opportunity to participate in the well.
- d) Signatory to CA #3 representing Uinta, is the president of both MOG and HGO, Craig Phillips.
- e) Uinta had sole control over submitting CA #3 to the BIA for approval. There are no other working interest owners listed on CA #3.

12. To the best of Murray's knowledge after extensively perusing the records of Uintah County, there is no other pooling agreement, voluntary or otherwise in the public record. Such

lack of existence in the public record may have bearing on the validity of some of the leases listed in CA #3.

13. Murray cannot find in the records of the Board any petition to pool, at any time, the interests in the drilling unit the subject of this action.

14. The DOGM production history shows the well to have been returned to production in April, 1997 and has continued on a near monthly basis since that time.

15. The DOGM currently recognizes, and has done so since October 2006, HGO, as the Operator of the 1-2B1E well. Proceeds for the sale of production from the 1-2B1E well (“**Proceeds**”) prior to September, 2009 were received solely by MOG and/or HGO and/or their predecessor(s) in interest.

16. Murray is entitled to a share of the Proceeds from the sale of oil produced by the 1-2B1E well as his interests are contained within that drilling unit established by the Board.

17. Murray believes there is some sort of residual acknowledgement of his entitlement to share in the proceeds from the sale of production from the 1-2B1E bestowed by his interest being listed in CA #1 which acknowledgment Uinta, MOG, and HGO are choosing to ignore.

18. Murray believes the decision by Uinta, and MOG and HGO, as successors in interest to Uinta, to exclude the unleased mineral owners from the voluntary pooling process and the failure to seek a pooling order from the Board was and is intentional and was and is without justification and was and is depriving Murray’s interest of his correlative rights and his interest’s share of the Proceeds.

19. Murray believes that Uinta, MOG and HGO failed to escrow such unpaid Proceeds as is required by Utah Code Ann. § 40-6-9-3(b)(i).

20. Murray believes the well to be in a “payout” status as to costs incurred subsequent to the well being returned to production in April, 1997.

21. Murray will, in accordance with Board rules, submit exhibits and present testimony in support of his request.

22. Murray will separately file a certificate of service confirming the service of this Request on parties entitled to notice by statute.

WHEREFORE, Murray respectfully requests that this Request for Agency Action be set for hearing at the scheduled meeting of the Board on April 28, 2010, that due notice be given as required by law and that following such hearing, the Board enter an order:

- A) Pooling the interests of the interest owners in the drilling unit comprised of the Subject Lands effective when the well returned to production in April, 1997; and
- B) Requiring the operator to account for all costs and proceeds from production from the pooling effective date to present; and
- C) Adopting the terms of the joint operating agreement attached hereto as Exhibit "J", which is already in effect amongst some of the working interest owners, to govern operations on the drilling unit to the extent not inconsistent with the foregoing, as provided in UCA § 40-6-6.5(2)(c), with the stipulation that if all (100%) of the working interest owners in the drilling unit agree to other terms they may amend or replace the joint operating agreement without returning to the Board for approval; and
- D) That Murray is a "consenting owner" as that term is defined in UCA § 40-6-2(4); and
- E) Which subjects Murray's interest to its proportionate share of the costs subsequent to the pooling effective date and which are to be payable from the Proceeds prior this order and according to the terms of the operating agreement subsequent to this order ; and
- F) Requiring Uinta, MOG/HGO to pay Murray a 1 1/2 % per month interest rate for Proceeds from the date such Proceeds should have been paid or escrowed as allowed by UCA 40-6-9(7)(a)(ii); and
- G) Requiring Uinta, MOG/HGO to pay Murray a 25% penalty of the total Proceeds and interest as allowed by UCA 40-6-9(7)(b)(i)(C)(ii) ; and
- H) Requiring Uinta, MOG/HGO to timely pay all future proceeds from the well in accordance with UCA 40-6-9; and
- I) Requiring Uinta, MOG/HGO to escrow future proceeds from the well in accordance with UCA 40-6-9; and
- J) Making such findings and orders in connection with this Request as it deems necessary; and
- K) Providing for such other and further relief as may be just and equitable under the circumstances.

Respectfully submitted this 11th day of March, 2010.

Signed


Clifford Murray, HC 66 Box 25B, Roosevelt, Utah 84066
435-650-5387